



Massachusetts  
Department  
of  
ENVIRONMENTAL  
PROTECTION

## f a c t s h e e t

# Drinking Water Public Notification

### WHAT IS PUBLIC NOTIFICATION?

Public notification is intended to ensure that consumers will always know if there is a problem with their drinking water. Public water systems must notify the people who drink their water if the level of a contaminant in the water exceeds Environmental Protection Agency (EPA) and Massachusetts drinking water regulations, if there is a waterborne disease outbreak or any other situation that may pose a risk to public health, if the water system fails to test its water as required, or if the system has a variance or exemption from the regulations. Depending on the severity of the situation, water suppliers have from 24 hours to one year to notify their customers. EPA sets strict requirements on the *form, manner, content, and frequency* of public notices. Public notification is provided in addition to the annual water quality report (consumer confidence report, or CCR), which provides customers with a more complete picture of drinking water quality and system operations. The annual CCR tells consumers what's in their water, where it comes from, and where they can obtain additional information.

### WHAT ACTION IS DEP TAKING?

Massachusetts Department of Environmental Protection regulations for public notification were adopted and effective on November 9, 2001. The revised regulations require faster notice in emergencies and fewer notices overall, and will result in notices that better communicate the potential health risks from drinking water violations and how to avoid such risks. The new rule will enable water systems to better target notices to the seriousness of the risk, make the existing notification process less burdensome for water suppliers, and make notices easier to read for consumers. Copies of the final DEP regulations may be obtained by downloading documents from DEP web site <http://www.state.ma.us/dep/brp/dws>.

### WHAT CHANGES WERE MADE TO THE PUBLIC NOTIFICATION REQUIREMENTS?

- **24-hour notice.** Water systems are required to distribute Tier 1 notices in 24 hours (instead of 72) for violations posing acute health risks due to short-term exposure. The number of violations and situations requiring a Tier 1 notice were significantly expanded from the previous rule.
- **Consultation requirement.** Water systems must consult with the DEP within 24 hours of a Tier 1 violation to receive direction on subsequent requirements. During non-working hours the DEP can be reached by calling State Police 1-800-525-5555.

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- **30-day notice for other serious violations.** The notice deadline for violations of maximum contaminant levels or treatment techniques that do not pose an immediate threat to human health is extended from 14 days to 30 days, with possible extension to 3 months (Tier 2).
- **12-month notice for non-serious violations.** *If allowed in writing by DEP*, the notice deadline for all other violations is extended from 3 months to 12 months, allowing a single annual report where applicable (Tier 3). Systems may choose to include this notice in their annual consumer confidence report.
- **Simplified standard language.** The existing standard health effects language is simplified, consistent with the consumer confidence report (CCR) requirements. New standard language is now required for monitoring violations. Recipients of public notices are also encouraged, through standard distribution language in notices, to further distribute the notices to people who may not receive a notice (such as tenants or hospital patients).
- **Streamlined distribution of notices.** Under the previous rule, water systems were required to use specific *multiple* delivery methods when distributing notices. The revised rule requires water systems to select a *single* minimum method for each tier from a regulatory list and to take additional steps of their own choosing that are reasonably calculated to reach all the other persons served. The minimum required methods of delivery listed in the revised regulation include the media, hand delivery, or posting for tier 1 notices, and direct mail, hand delivery, or posting for Tier 2 and Tier 3 notices.
- **Certification of Compliance.** The revised rule requires a water system to certify to the DEP within 10 days that it has met all public notice requirements. The previous rule required only that a copy of the notices be sent to the DEP.

## **HOW DOES THE FINAL REGULATION WORK?**

The final regulation divides public notice into three tiers:

**Tier 1**, for violations and situations with significant potential to have serious adverse effects on human health as a result of short-term exposure. Notice is required within 24 hours of the violation.

**Tier 2**, for other violations and situations with potential to have serious, but not immediate, adverse effects on human health. Notice is required within 30 days, or as soon as possible, with extension of up to three months for resolved violations at the discretion of the DEP.

**Tier 3**, for all other violations and situations not included in Tier 1 and Tier 2. Unless otherwise specified in writing by the DEP, notice is required within 12 months of the violation, and may be part of a single

annual report, including in some cases the annual CCR already required, or as in the case of TNC, provided by DEP.

### **What types of violations and situations are covered under each tier?**

The DEP Drinking Water Regulation 310 CMR 22.16 Table 6 contains a listing of every violation and situation requiring a public notice and its tier. The tier to which the violation or situation is assigned determines the requirements for the timing of the public notice and the form and manner of its delivery. For example, a total coliform violation where fecal coliform is present falls under Tier 1, which requires notification delivery within 24 hours by (at a minimum) appropriate broadcast media, posting, or hand delivery. *See Table 1 below for the list of violation types and situations identified under each tier.*

### **What are EPA requirements for the form, manner, and content of the public notices?**

The final rule sets minimum methods of delivery under each tier, but also requires that water systems take steps reasonably calculated to reach others not reached by the minimum method. Each notice must contain information addressing ten elements, including use of standard health effects language for maximum contaminant level (MCL) and treatment technique violations and standard language for monitoring violations. The DEP Drinking Water Regulation 310 CMR 22.16 Table 7 contains the required language of all listed violations. Public water systems serving a large proportion of non-English speaking consumers are also required to include information in the notice in languages other than English. *See the attached Figure 1 for an example of a completed notice, including the required ten elements.*

## **NEW IMPLEMENTATION REQUIREMENTS**

### **Which public water systems are affected by the regulation ?**

All the public water systems are required to make changes to their current public notification programs to incorporate the revised regulations.

### **How is DEP helping public water systems with new requirements?**

DEP has provided templates of all notices on its website and will refer public water systems to the EPA and the Association of State Drinking Water Administrators (ASDWA) *Public Notification Handbook* that will assist water systems in implementing the revised regulation. This EPA/ASDWA *Handbook* provides templates for notices and other aids to help water systems develop notices for violation situations. **The EPA/ASDWA Handbook templates are non-state specific so Massachusetts's water suppliers are required to use the**

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**Massachusetts version of the templates for compliance purposes.**  
Copies of the Massachusetts' public notification templates are available on the DEP website <http://www.state.ma.us/dep/brp/dws/publnot.htm>.

## **TABLE 1**

### **Violations and Situations Requiring Public Notice**

#### **Tier 1 Public Notice - Required Within 24 Hours**

Fecal coliform maximum contaminant level (MCL) violation or failure to test for fecal contamination after total coliform test is positive  
Nitrate/nitrite/combined nitrate and nitrite MCL violation or failure to take confirmation sample  
Chlorine dioxide maximum residual distribution level (MRDL) violation in distribution system or failure to take repeat samples in distribution system  
Exceedance of maximum allowable turbidity level resulting in an MCL or treatment technique (TT) violation, when the DEP or EPA determines a Tier 1 notice is warranted  
Special public notice for non-community water systems with nitrate exceedance between 10 mg/l and 20 mg/l, when allowed to exceed MCL (10 mg/l) by the DEP  
Waterborne disease outbreak or other waterborne emergency  
Other situations as determined by the DEP

#### **Tier 2 Public Notice**

#### **Required Within 30 Days (unless extended to 90 days by DEP)**

All other MCL, MRDL, and TT violations not identified as a Tier 1 notice  
Monitoring and testing procedure violations, when the DEP requires a Tier 2 (rather than Tier 3) notice  
Failure to comply with variance and exemption (V&E) conditions

#### **Tier 3 Public Notice - Required Within 1 Year** **(Unless otherwise specified in writing by the DEP)**

All other monitoring or testing procedure violations not already requiring a Tier 1 or Tier 2 notice  
Operation under a V & E  
Special public notices (i.e., exceedance of the fluoride secondary maximum contaminant level (SMCL); announcing the availability of unregulated contaminant monitoring results)

### **For Assistance on the new public notification requirements:**

Western Regional Office: Eva Tor, 413-755-2295  
Central Regional Office: Paula Caron, 508-767-2719  
Northeast Regional Office: John Mullins, 617-654-6529  
Central Regional Office: Ana Maria Whittier, 508-946-2762  
Boston: Marie Tennant, 617-292-5885  
Mass. Coalition for Small Systems Assistance: Jeff Fencil, 508-873-7979  
Visit the DEP website <http://www.state.ma.us/dep/brp/dws/publnot.htm>

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